

Staff Report

Story County

Board of Adjustment

Date of Meeting:

January 19, 2022

Case Number CUP22-000001

APPLICANT: Michael Roth, HR Green
5525 Merle Hay Road, Suite #200
Johnston, Iowa, 50131

On Behalf of the City of Nevada
1209 6th Street
Nevada, IA 50201

STAFF PROJECT MANAGER: Andrea Wagner, Planner

SUMMARY: The request is for a conditional use permit modification for the proposed route of the City of Nevada's sewer. A sewer line is proposed between the existing Wastewater Treatment Facility and the new facility, which was approved by the Board in October of 2020. A lift station and force main are proposed to pump effluent from the existing wastewater treatment facility to the facility that is currently under construction at 62512 270th Street. The proposed route for the sewer is through or along 19 parcels, all under private ownership and in an agricultural use, with two farmsteads within 350 feet of the proposed sewer line. These parcels are east of County Road S-14/620th Avenue. The sewer will be constructed through open trenching. A permanent easement 40-feet in width will be needed over the affected parcels. The new facility's previous approval included locating the sewer along the S-14/620th Avenue road right-of-way, provided that the appropriate permits were granted by County Engineering. Due to safety concerns with the bore pits in the road right-of-way, those permits were not granted, and the sewer is now proposed to go through private, agricultural land. The sewer is proposed to be completed in Spring 2023. Due to the route through agricultural lands, staff is recommending several conditions intended to better protect the soils and adjacent row-crop areas. Planning and Development staff recommend approval of the conditional use permit modification, with conditions.





Property Information

PROPERTY OWNERS AND PARCEL IDENTIFICATION NUMBERS

See Appendix A

GENERAL PROPERTY LOCATION

Parcels east of County Road S-14/620th Avenue, located in Sections 18, 19, and 30 in Nevada Township

CURRENT ZONING

A-1 Agricultural

LAND USE FRAMEWORK MAP DESIGNATION

Agricultural Conservation Area

CITIES WITHIN TWO MILES

Nevada

Background

This request is for a conditional use permit modification for the sewer line that will connect the existing City of Nevada Wastewater Treatment Facility with the facility that is currently under construction at 62512 270th Street. Public water supply and sewage treatment facilities are allowed in the A-1 Agricultural Zoning District in accordance with the requirements of Chapter 90, Conditional Uses, of the Story County Land Development Regulations and with the granting of a conditional use permit by the Board of Adjustment.

Route and Current Land Use

The proposed sewer route traverses approximately 2.8 miles of private land south of the City of Nevada. All parcels are currently in row-crop production and under private ownership—two of the parcels contain single-family dwellings in addition to row-crops. The proposed route does not cross into mapped natural resource areas, and all known private wells greatly exceed the Iowa DNR's required separation distance of 75 feet from the proposed sewer line. The applicant has stated that five property owners along the route have executed easement purchase agreements for the project, for a total of six impacted parcels. As for the other properties, the applicant states that "The City intends to use all means available and necessary to them to expeditiously obtain easements for this critical public infrastructure project in order to protect and improve water quality within and beyond Story County." If property is not obtained through a purchase agreement, it will go to the condemnation board, which will determine the amount of compensation to the landowner. The amount of land needed for the temporary and permanent easements would then be acquired through eminent domain. The temporary construction easement is proposed to be 80 feet in width, and upon project completion, the permanent easement will be 40 feet in width and is necessary for maintenance of the sewer line.

Need for a New Wastewater Treatment Facility

The proposed sewer line is a necessary component of the new wastewater treatment facility that is under construction. The new wastewater treatment facility will replace the existing wastewater



treatment facility, located at 457 S 6th Street in Nevada. The existing wastewater treatment facility is approximately 60 years old. It no longer has the capacity to support the population growth of the City of Nevada, the expansion of Burke Corporation, or meet current Iowa Department of Natural Resources requirements.

The Iowa Nutrient Reduction Strategy has set more stringent limits for Total Nitrogen and Phosphorous Removal and the existing wastewater treatment facility would require major modifications to meet these requirements. The existing wastewater treatment facility also does not provide disinfection, which is required to meet new Iowa Department of Natural Resources permit limits. The proposed facility will provide a higher level of treatment, meeting the stricter effluent limits, than the existing facility. The new wastewater treatment facility was approved by the Board of Adjustment at their October 21, 2020, meeting.

Staff is recommending approval. Part of this recommendation is due to past legal precedent from the 1985 case of *Ames v. Story County*, where the Board of Adjustment denied Ames' conditional use permit request for a wastewater treatment facility. The case went to the Iowa Supreme Court. Their opinion was that both entities had a strong public interest in the project. While the conditional use permit was required, "the county can have no absolute veto over the construction or placement of the plant." The county and city are to work out any conflicting governmental interests through the conditional use permit process (for example, through conditions). Otherwise, the court will need to balance the interests and determine which is greater. If the Board were to deny the permit, a strong argument would need to be articulated about why the denial was for a greater public interest. The City is in need of a new municipal Wastewater Treatment Facility, and a permit has been granted for its construction. The County is interested in protecting motorist safety—creating the need for the sewer to be routed through private property—and protecting prime agricultural land, which has resulted in the recommended conditions that are listed later in this staff report. The Board can, however, table the discussion if they feel more information is needed to determine if all Standards for Approval in [90.04](#) have been met.

Future Land Use

The subject properties are designated as Agricultural Conservation Areas on the C2C Comprehensive Plan Future Land Use Map.

Principle 3 of the C2C plan for Agricultural Conservation Areas is to "encourage high-value agricultural lands to remain as agricultural and discourage non-agricultural development of such lands. Direct future non-agricultural development toward the designated Urban Expansion, Rural Residential, Rural Village, and Commercial Industrial Area designations on the Future Land Use Map."

Surrounding Land Use

The route for the sewer line begins at the force main adjacent to Nevada city limits and then runs east for approximately 450 feet, adjacent to Heather Glenn mobile home park. One dwelling inside City limits is approximately 33 feet from the proposed route, and a manhole, buried below grade, is proposed to be near that location. The route then turns south, crossing agricultural land that is currently being row-cropped. Along the northern portion of the route are three single-family dwellings—two of them contained on properties intersected by the sewer route. These dwellings are approximately 263 feet and



338 feet from the proposed sewer line. There is another dwelling on a parcel that is not proposed to be intercepted by the sewer that is approximately 351 feet from the proposed sewer line.

Moving south along the route, there are small clusters of single-family dwellings both on the west and east sides of County Road S-14/620th Avenue. These homes are greater than 600 feet from the proposed route. The route also crosses 250th Street/ South S Avenue.

As the route nears its end-point at the new Wastewater Treatment Facility south of 270th Street, it will intercept grassed waterways /surface drainage areas in the agricultural fields. According to the applicant, "To date, no landowners have stated they are receiving CRP payments for the identified project easement areas. If there are areas within the construction limits currently enrolled in the CRP, the restoration would return these areas to previous form and function and not remove them from the CRP."

Finally, the sewer line ends at its connection with the Wastewater Treatment Facility, approximately 0.46 miles east of the intersection of S-14/620th Avenue and 270th Street. The sewer will be routed beneath 270th Street for the crossing onto the Wastewater Treatment Facility property.

For both road crossings (South S Avenue and 270th Street), the County Engineer is allowing the applicant to open cut both roads, but they are limited to a 48-hour maximum closure time. Both roads cannot be closed at the same time. The applicant will also be signing a detour route. Please see Figure 1 for a general map of the proposed sewer route across all impacted properties.

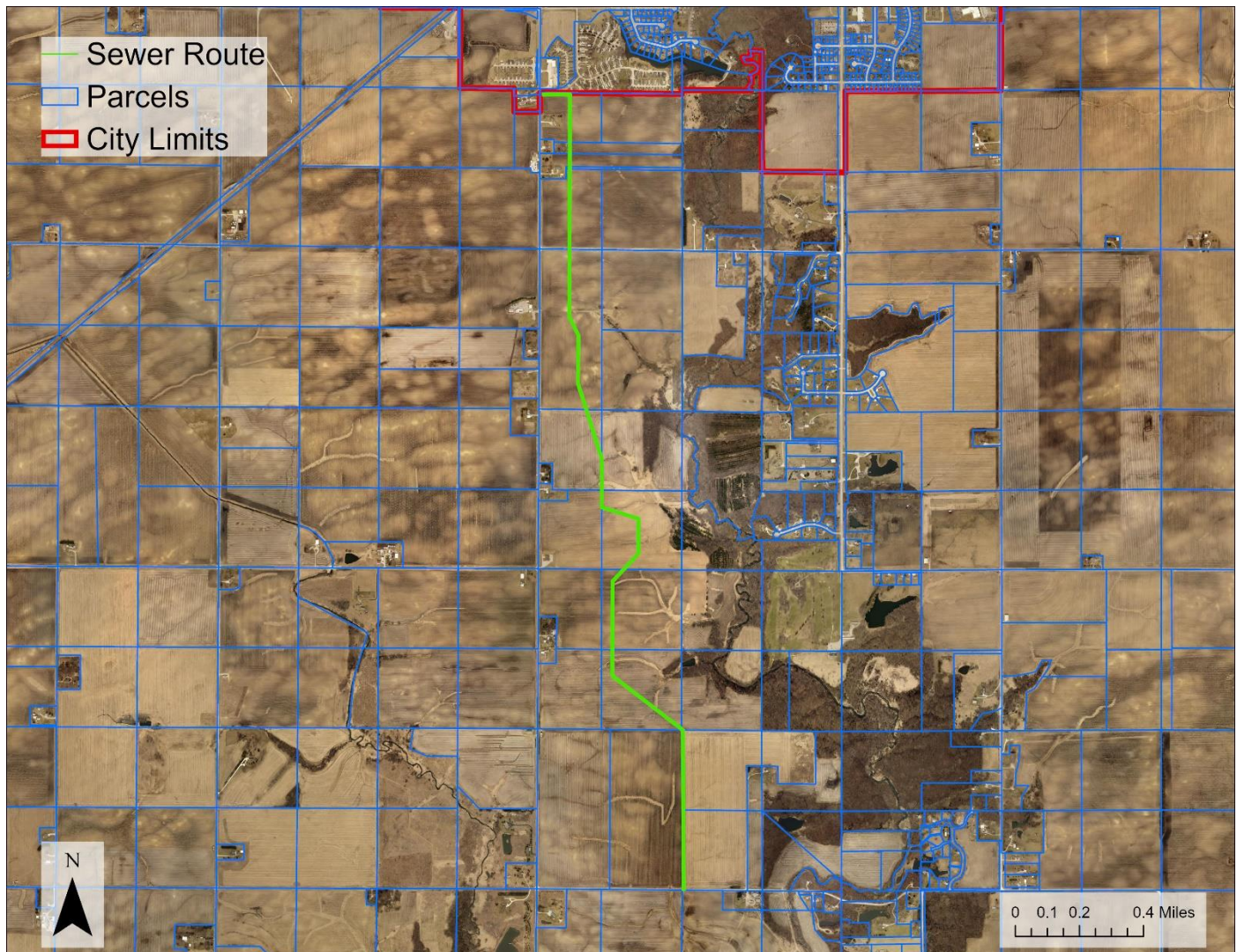


Figure 1: Proposed Sewer Route

Analysis

1. **Applicable Regulations:** Chapter 90.04: Standards for Approval

The Board of Adjustment shall review the proposed development for conformance to the following development criteria:

1. **Compatibility.** The proposed buildings or use shall be constructed, arranged and operated so as to be compatible with the character of the zoning district and immediate vicinity, and not to interfere with the development and use of adjacent property in accordance with the applicable



district regulations. The proposed development shall not be unsightly, obnoxious, nor offensive in appearance to abutting or nearby properties.

Applicant Comment: The proposed trunk sewer route is currently classified as an A-1 Agricultural Zone. According to Table 90-1 of Story County's Code of Ordinances, "public water or sewage treatment facilities" are permitted conditional uses of this zone with the approval of a conditional use permit. The trunk sewer will be designed to be compatible with the current Agricultural Zoning classification of the site.

Permanent easements will be acquired for placement of the trunk sewer and related manhole structures on the affected properties. The easement will allow for construction and maintenance of the sanitary sewer infrastructure. City is following the statutory requirements for obtaining easements, including formal appraisals, negotiations, and purchase agreements with affected landowners.

The proposed trunk sewer will not be unsightly, obnoxious, nor offensive in appearance to abutting or nearby properties. This infrastructure will be located below grade or at grade and not visible.

Staff Comment: The sewer line will be at or below grade, buried 6 to 18 feet. Manhole covers where crop production occurs will be buried and excavated as-needed if maintenance is required. Due to the nature of this project, staff finds it will not be unsightly or obnoxious once complete. The applicant has stated that landowners and tenants will have access to all areas outside of the construction easement during planting and harvest, and access will be provided through the construction easement if necessary, with such access coordinated between the landowner or tenant and the contractor.

In order for the sewer route to be *constructed* so as to be compatible with the character of the zoning district, however, staff is recommending several conditions intended to better protect the agricultural lands that the sewer is being routed through. The conditions begin on page 14 of this report and are summarized below.

With the previous approval, very few acres of agricultural land were to be impacted due to the routing in the road right-of-way. With the current request, approximately 24 acres of agricultural land will be impacted along the 2.8 mile long route, based on an 80-foot-wide temporary construction easement. Further discussion on the agricultural lands being high-value/highly-productive is contained under the section on conformance with the county comprehensive plan.

The conditions proposed for this CUP modification are related to the protection of agricultural land and include: notification to owners when the construction easement is marked, providing contact information to landowners for whom to contact should issues arise, results of soil borings being provided to property owners, no topsoil removal and limiting work in wet conditions, separation of topsoil and subsoil stockpiles and stabilization of stockpiles, standards for dewatering the trench, standards for subsoil deep tillage, standards for topsoil replacement, weed management agreements, standards for restoring rutted land and surface drainage ways, communicating with landowners regarding private drain tile lines, standards for repairing drain



tile lines and communicating to landowners about said repairs, requiring copies of all DNR permits, naming the City and its contractors as the responsible party for all conditions, and a provision stating that County conditions do not preclude any provisions in excess of conditions on the CUP that landowners have agreed to with the City and contractors.

While landowners may make claims related to damages they believe are from construction activities, the conditions that staff are recommending may minimize the number of claims made to the City or through other legal processes and protect agricultural land from damage in the first place.

2. **Transition.** The development shall provide for a suitable transition, and if necessary, buffer between the proposed buildings or use and surrounding properties.

Applicant Comment: As previously stated, the trunk sewer infrastructure is located below or at grade. Crop production within the permanent easement will be allowed once construction is complete, providing a suitable transition back to the existing use for the affected and surrounding properties.

Staff Comment: Due to the sewer line and manholes being at or below grade, staff finds that this standard is met. Staff is not recommending any buffers. The proposed route is approximately 33 feet from a dwelling inside of City limits; however, the DNR standards do not appear to have restrictions on proximity to dwellings—only waterworks structures, such as private wells.

3. **Traffic.** The development shall provide for adequate ingress and egress, with particular attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.

Applicant Comment: The trunk sewer will not create new permanent traffic flow once installed. Future ingress and egress will be limited to maintenance on an as-needed basis via the permanent easement. No permanent surfacing will be placed within the permanent easement for access.

During construction, traffic control measures and detours shall be provided along affected roads (250th Street and 270th Street). Traffic control shall follow the current MUTCD manual and/or County regulations.

Staff Comment: The applicant has stated that “The total volume and frequency of construction traffic is indeterminate; however, would consist of material and equipment deliveries and employee (contractor, City, Engineer, County, State) travel to and from the work site(s).” Additionally, both 250th Street/ South S Avenue and 270th Street will undergo closures, limited to a maximum of 48 hours, and not to be closed at the same time. This is recommended as a condition. The applicant will sign a detour route with the County Engineer’s office.

4. **Parking and Loading.** The development shall provide all off-street parking and loading areas as required by this Ordinance, and adequate service entrances and areas. Appropriate screening



shall be provided around parking and service areas to minimize visual impacts, glare from headlights, noise, fumes or other detrimental impacts.

Applicant Comment: There are no parking needs associated with the trunk sewer infrastructure.

Staff Comment: No permanent parking areas are proposed for the project. The applicant has stated that maintenance work will be completed using the permanent easements over each property (40-foot width). Construction vehicle parking will be in the temporary easement area (80-foot width) and on property owned by the City.

5. **Signs and Lighting.** Permitted signage shall be in accordance with the applicable district regulations and shall be compatible with the immediate vicinity. Exterior lighting, if provided, shall be with consideration given to glare, traffic safety and compatibility with property in the immediate vicinity.

Applicant Comment: There is no signage or lighting needs associated with the trunk sewer infrastructure.

Staff Comment: There is no permanent lighting or signage proposed for the sewer route. Anticipated construction hours are Monday through Saturday, 7:00 AM to 7:00 PM.

For construction occurring during evening hours, the Story County Land Development Regulations do allow for lighting of construction projects, provided that "All fixtures used for such lighting shall be fully shielded or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare." Furthermore, "Temporary outdoor light fixtures for uses incidental to construction work shall only be illuminated when construction work is occurring and removed upon completion or abandonment of the construction work."

Temporary traffic control signage is also proposed, and the applicant will need to acquire a permit from the County Engineer's office for said signage.

6. **Environmental Protection.** The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other undesirable, hazardous or nuisance conditions, including weeds.

Applicant Comment: The proposed trunk sewer is designed and operated in such a manner that environmental and visual resources will be safeguarded. The infrastructure will be located below grade and land affected will be returned to its original use once construction is completed. The proposed trunk sewer design will follow all Iowa DNR design standards regulations.

The facility will not generate any vibration, dust, or smoke except during construction activities. Construction activities will obtain all necessary permits as required at local, state, and federal levels.

All wastewater will be contained within the trunk sewer pipe and manholes for conveyance to the wastewater treatment facility and will not result in any impact to existing groundwater. The



wastewater will be discharge to the previously approved wastewater treatment facility for treatment prior to discharge into West Indian Creek.

As with any wastewater conveyance system, there will be odor present; however, the presence of odor will be mitigated since most manhole accesses are to be buried on the route. The facility will not generate odor more than what would be expected of the current sites or surrounding sites as an agricultural use.

Staff Comment: Visual resources will be safeguarded due to the sewer and accompanying manholes being at or below grade. Once completed, the sewer route is not anticipated to create any nuisance conditions through the generation of excessive noise, vibration, dust, smoke, fumes, odor, glare, or groundwater pollution. The applicant has stated that Statewide Urban Design and Standards (SUDAS) will be called out on the bid package.

In regard to weed management, staff will be recommending as a condition that mechanical means of weed control (e.g., disking or mowing) are used throughout the easement area. Weed management is of particular importance in this case due to the route intersecting multiple parcels of agricultural land.

The sewer line is a gravity sewer, and not under pressure. Staff contacted the project engineer from the Iowa DNR to inquire about design standards. Per 567.64.2(9) of the *Iowa Administrative Code*, when reviewing construction permits, the DNR can apply a multitude of standards and guidelines, such as the 2014 Ten States Standards and other technical materials when needed.

Pipe collapse due to a natural calamity or otherwise must be reported to the Iowa DNR within 24 hours. They further stated that no encasing of the sewer line is necessary if it is not crossing sensitive areas such as waterways. A leak detection certification test is required prior to the sewer being connected and used.

Story County Emergency Management also stated that if their agency or the Story County Local Emergency Planning Committee Chair were notified of a release of materials from a sewage line, their role would be to ensure the applicable notifications are made to State and Federal agencies.

As the sewer line must be designed to meet the Iowa DNR standards, staff finds that the standard of environmental protection will be met, including with the condition for weed management in the construction easement area. Staff will be recommending a condition that copies of all DNR permits are provided to the Planning and Development department prior to the start of construction. The applicant has contacted the Iowa DNR project manager regarding the updated route for the sewer, and the revised environmental review process is underway.

- 2. If the Board concludes that all the above development criteria will be met, it must recommend approval of the application unless it concludes that, if completed as proposed, there is a strong probability the development will:**



- 1. not adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property.**

Staff Comment: The Iowa Department of Natural Resources requires that the sewer has a separation distance of 75 feet from private wells. The proposed sewer route exceeds this standard. Property directly impacted by the sewer route is currently in an agricultural use, with two properties containing single-family dwellings/farmsteads closer to the northern end of the route. These dwellings are approximately 263 feet and 338 feet from the proposed sewer line. There is another dwelling on a parcel that is not proposed to be intercepted by the sewer that is approximately 351 feet from the proposed sewer line. The proposed route is also approximately 33 feet from a dwelling inside of City limits; however, the DNR standards do not appear to have restrictions on proximity to dwellings—only waterworks structures, such as private wells.

- 2. impair an adequate supply (including quality) of light and air to surrounding properties.**

Staff Comment: Due to the sewer and manholes being at or below grade, the presence of any odor should be reduced. During maintenance of the sewer line, any buried manholes will be excavated to be accessed. The applicant has stated that “non-emergency maintenance activities would likely be scheduled to occur outside of the planting, growing, and harvest seasons.” The City has not yet established the frequency or schedule of its non-emergency maintenance needs for the sewer route.

No permanent lighting is proposed for the project.

- 3. unduly increase congestion in the roads, or the hazard from fire, flood, or similar dangers.**

Staff Comment: Once the sewer route is complete, minimal traffic will be generated on surrounding roads for maintenance purposes. The sewer route does not go through mapped floodplain. No other hazards are anticipated.

- 4. diminish or impair established property values on adjoining or surrounding property.**

Staff Comment: Staff reached out to the County Assessor regarding property values, and the Assessor does not foresee any impacts.

- 5. not be in accord with the intent, purpose and spirit of the Land Development Regulations or County Cornerstone to Capstone (C2C) Plan.**

Staff Comment: The subject properties that are intersected by the sewer are designated as Agricultural Conservation Areas.

Principle 3 of the C2C plan for Agricultural Conservation Areas is to “encourage high-value agricultural lands to remain as agricultural and discourage non-agricultural development of such lands. Direct future non-agricultural development toward the designated Urban Expansion, Rural Residential, Rural Village, and Commercial Industrial Area designations on the Future Land Use Map.”



The selected sewer route runs through land that has higher than average scores on the Corn Suitability Rating 2 (CSR2) scale. The CSR is based on the U.S. Department of Agriculture's Natural Resource Conservation Service's current soil survey for Story County. A CSR rating can range in value from 5-100, where a rating of 100 is the most productive soil and five (5) is the least productive. The average CSR2 for Story County is 80.2, according to the latest Iowa State Extension map (<https://www.extension.iastate.edu/soils/suitabilities-interpretations>).

Overlaying the proposed sewer route with soil survey maps indicates that much of the impacted land has CSR2 scores of 83-91 (See Figure 2). It can thus be concluded that the proposed route covers high-value agricultural lands, which poses conflicts with Principle 3 of the C2C plan for Agricultural Conservation areas. However, the intent is for the area impacted by the sewer route to be returned to an agricultural use. For this reason, and due to the higher than average CSR2 scores present on the impacted properties, staff is recommending several conditions for protecting and restoring (decompacting) the subsoils and topsoil that is excavated for the open trench construction (conditions 1-17 on beginning on page 14 of the staff report). These recommendations are based on Chapter 9 of the Iowa Utilities Board division—"Restoration of Agricultural Lands During and After Pipeline Construction." Staff contacted the Iowa Utilities Board (IUB) to determine if the rules of 199 *Iowa Administrative Code*, chapter 9, "Restoration of Agricultural Lands During and After Pipeline Construction" would apply to this project. The IUB determined that they do not have authority over this project. However, 199.9 of the *Iowa Administrative Code* includes what staff believe to be best practices for restoring agricultural uses after open trench construction. Requiring some of these practices through conditions on the permit will better align the sewer installation with Principle 3 of the C2C Plan.

The applicant voiced concerns with the subsoil tillage requirements and requested that they be allowed to fully compact subsoils per Iowa Statewide Urban Design and Specifications (SUDAS) standards. After hearing the applicant's concerns on subsoil tillage (recommended for restoration in 199.9) affecting the SUDAS compaction guidelines, staff contacted County Engineering, an engineering firm that has acted as an inspector on past county pipeline projects, and another engineering firm, to get perspectives on the need for full compaction after open trenching on agricultural land. These other entities recommend decompaction of the subsoils, as SUDAS guidelines mainly apply to compaction of soils where streets/driveways, or road right-of-way, will be located. In an agricultural setting, these same standards would not generally be necessary except for road crossing and in the right-of-way.

While conserving agricultural lands in Story County is a primary goal of the C2C Plan, there are uses such as wastewater facilities that have specific siting requirements that are better accommodated in rural areas. The cities of Roland, Zearing, Gilbert, and Ames (which also serves Kelley) all have their wastewater treatment facilities located in the unincorporated areas of Story County. All other cities except Nevada have their facilities inside their corporate boundaries but located on the boundary with the unincorporated area.

The proposed wastewater treatment plant will meet more stringent effluent limitations than the existing plant, which also discharges into West Indian Creek.

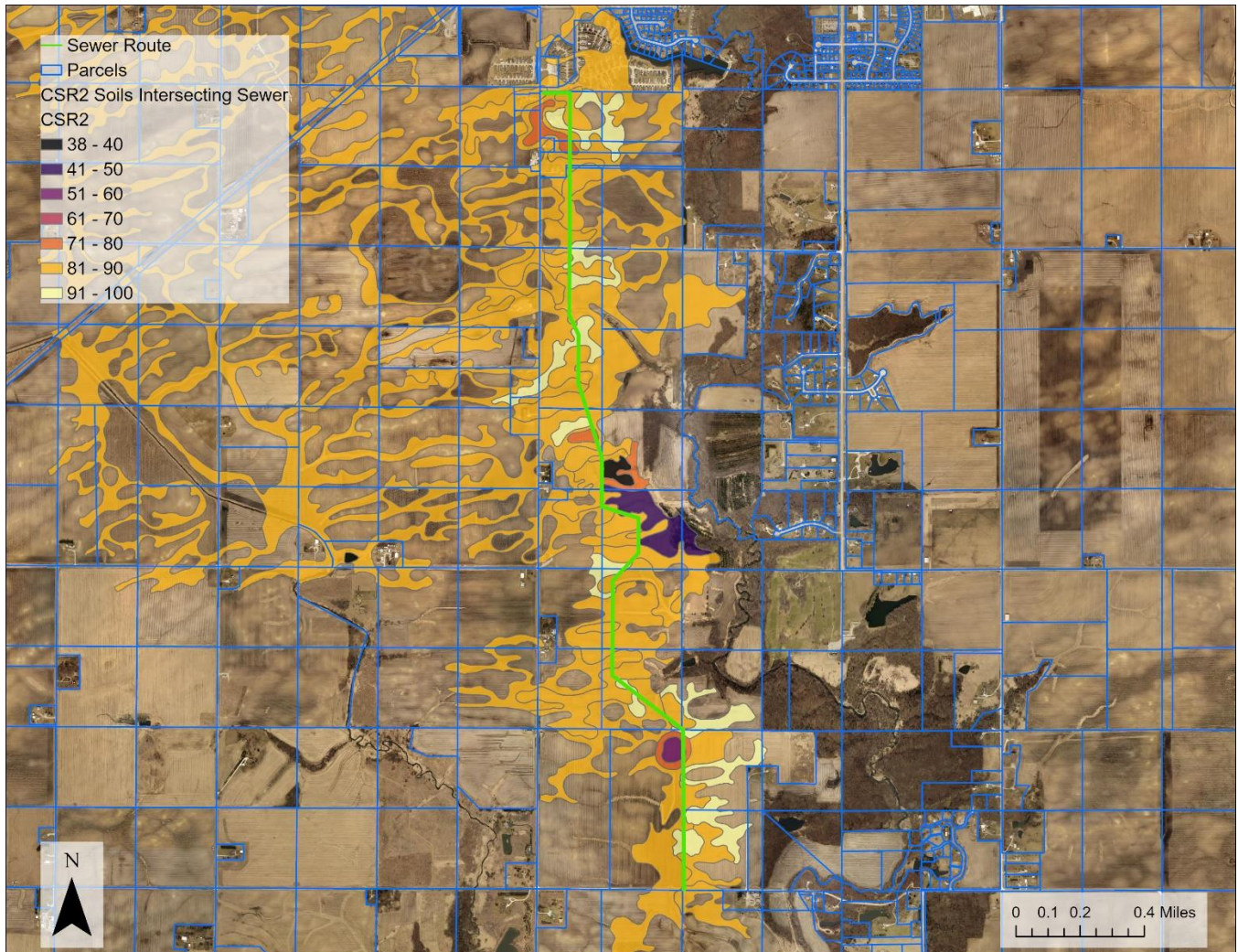


Figure 3: Soils Intersected by Sewer Route

3. Burden of Persuasion.

1. The burden of persuasion as to whether the development, if completed as proposed, will comply with the requirements of this Chapter is at all times on the applicant.
2. The burden of presenting evidence to the Board of Adjustment sufficient enough for it to conclude that the application does not comply with the requirements of this Chapter is upon the person or persons recommending such a conclusion, unless the information presented by the applicant warrants such a conclusion.



Comments

The following comments are part of the official record of the proposed **City of Nevada Sewer, CUP22-000001**. If necessary, conditions of approval may be formulated based off these comments.

A Conceptual Review meeting for the proposed Conditional Use Permit request was held on Thursday, December 2, 2021. After conceptual review, the complete application submittal was also forwarded to the members of the Interagency Review Team. Some of the County staff review comments were as follows:

Engineer's Comments:

1. Recommending condition that the closure of 270th Street for the sewer crossing will be limited to 48 hours during construction.

Environmental Health's Comments:

1. No known private septic systems appear to be near proposed trunk line being installed.

Planning and Development Selected Comments

1. On the route map, owners are identified for parcels that do not appear to be intersected by the sewer route. Is this because you have identified a corridor where the sewer line may be located, meaning it could be shifted to some of these other parcels?
2. Who determines if it is too wet to work?
3. How far in advance of construction will the easement areas be marked, and will property owners have the opportunity to check the location?
4. How many soil borings will be done for the length of the route and at what intervals? You also stated in response to question #22 that soils classifications from the borings will be reported. To whom will they be reported?
5. Will reseeded areas be planted with the grass variety that was on-site prior to construction, or will the same grass variety be used for all reseeded areas along the route?
6. Will you be providing any weed control in the easement area to prevent weeds from spreading to adjacent cropland?
7. Will the trenches be left open overnight/during pauses in construction, and if so, will there be barriers around them to prevent access from the public?
8. How many easements do you have for the trunk sewer route at this time? Have you been successful in contacting all property owners identified on the route map?
9. Will subsoil and topsoil stockpiles be marked separately on the SWPPP and/or on-site? We may suggest a condition that subsoil and topsoil stockpiles be sufficiently spaced to prevent mixing during backfilling. Additionally, you mention in response to question #19 that subsoil tillage is not being considered at this time. Staff may recommend requiring such tillage as a condition of the permit.

Comments from the General Public



Public notification letters were mailed to surrounding property owners within a ¼ mile of the sewer route on January 7, 2022, regarding the Conditional Use Permit modification and public hearing.

No comments have been received at the time of completion of this staff report.

Points for Consideration

1. The existing facility no longer has the capacity to support the population growth of the City of Nevada, the expansion of Burke Corporation, or meet IDNR requirements. The new facility received a Conditional Use Permit in 2020 and is now under construction. The sewer line is needed to connect the existing facility with the facility under construction on 270th Street.
2. Due to safety concerns with the bore pits required for installing the sewer in the road right-of-way, the sewer is now proposed to be located on private, agricultural land.
3. The impacted properties are designated as Agricultural Conservation Areas the C2C Plan. The soil maps indicate that areas intersected by the sewer route have higher than average CSR2 ratings. Staff is recommending several conditions intended to offset some of the construction impacts to the agricultural lands.
4. The applicant previously completed a property value study for the new Wastewater Treatment Facility, which indicated that no impact to property values is anticipated. At that time, the sewer was proposed to run through the road right-of-way. Staff has reached out to the County Assessor for their opinion on property values and the location of the sewer line. They did not express concerns.
5. The goal of the City and the County should be to balance public interest through the conditional use permit process, based on past legal precedent.

Recommendation to Board of Adjustment

Planning and Development Staff recommends approval of the Conditional Use Permit for the City of Nevada's Sewer, with the following conditions:

1. The City of Nevada shall appoint a designee who will be responsible for marking the easement area with lath prior to beginning construction. Property owners shall be notified once the easement area is marked. Construction shall not begin until seven days after the notification, unless waived by the property owner.
2. Property owners shall be provided with contact information of who to contact should issues arise during construction, e.g., project observer or engineer.
3. Results of the soil borings shall be provided to property owners prior to beginning construction. They shall be provided via mail or made available elsewhere with written communication to property owners indicating how they may be accessed.



4. Topsoil shall be stripped from all work areas; otherwise work shall not occur in wet conditions where work could cause rutting to the extent that topsoil and subsoil may mix or damage to underground drainage structures may occur.
5. Topsoil and subsoils shall be stockpiled on opposite sides of the trench. Where it is impractical or impossible to place stockpiles on opposite sides of the trench due to the trench location in the right-of-way/easement, then topsoil and subsoil stockpiles shall be separated by at least 5 feet to prevent mixing. The separation distance shall be lessened if it presents safety concerns, but not to the degree that stockpiles become mixed. Stockpiles shall be stabilized within 14 days of stockpiling through seeding and mulching or other methods if weather does not allow for seeding. Stockpiles shall be protected from construction traffic.
6. Dewatering of the trench shall not damage agricultural land through inundation or damage agricultural land and surface drains through sedimentation. If water is pumped outside of the easement area, permission shall first be granted by the landowner.
7. In areas previously in row crop production or on land that may be cultivated, after backfill and compaction of subsoils in the trench or after work has been completed in other areas of the right-of-way/easement, subsoils shall be deep tilled or ripped to at least 18 inches, with at least three passes of the deep tillage equipment. Work shall be performed under soil moisture conditions that result in a maximum standard penetration test (SPT) reading of 300 psi pursuant to ASTM D1586-11 performed by a qualified person.
8. Topsoil shall be replaced at a minimum of eight inches or the depth of topsoil that was removed from the area, whichever is greater. SUDAS standards for topsoil tilling and removal of rocks and other unsuitable materials shall be followed. These areas may be seeded with cover crops at the request of the landowner.
9. Weed management shall be provided in the temporary construction easement through mechanical means (e.g. disking or mowing) for two years or until the project is accepted as completed.
10. Rutted land shall be graded and tilled until restored as near as practical to its preconstruction condition. Rutting shall be remedied before any topsoil that was removed is replaced.
11. Surface drainage ways shall be restored to the elevation and grade existing prior to the time of sewer line construction.
12. The applicant shall communicate in writing with property owners along the proposed sewer route to request information on private drain tile lines prior to construction.
13. Any drain tiles impacted by sewer line construction shall be repaired to their original or better condition, including at the same gradient/alignment, unless otherwise agreed upon with a landowner. Any underground drain tile damaged, cut, or removed shall be marked. This marker shall not be removed until the tile has been permanently repaired. Temporary tile repair to maintain function or to prevent entry of sediment, other material, or small animals shall be required until permanent repairs are made.



14. All property owners whose drainage tile is damaged from construction activities, and subsequently repaired, shall be notified, in writing, of the damage and when the repair is completed.
15. A copy of all relevant Iowa DNR permits, including the NPDES permit and SWPPP, shall be submitted to Story County. On steep or lengthy slopes or for areas that show signs of concentrated flows or sedimentation, additional erosion and sediment control BMPs may be required. These practices may include silt fence, filter berms, filter socks, or other flow diversion and flow control BMPs to reduce the amount or velocity of flow a disturbed area receives.
16. The City of Nevada or their contractors shall be responsible for ensuring these conditions are met.
17. These conditions do not preclude alternative provisions to protect and restore property in excess of these conditions that the landowner and City of Nevada have agreed to.
18. Both road crossings (South S Avenue and 270th Street) are limited to a 48-hour maximum closure time. Both roads cannot be closed at the same time.

Alternatives for the Board of Adjustment

The Board of Adjustment may consider the following alternatives for the conditional use permit request:

- 1) The Story County Board of Adjustment approves the Conditional Use Permit for the City of Nevada Wastewater Sewer as put forth in case CUP22-000001, as submitted.
- 2) **The Story County Board of Adjustment approves the Conditional Use Permit for the City of Nevada Wastewater Sewer as put forth in case CUP22-000001, with the above conditions.**
- 3) The Story County Board of Adjustment denies the Conditional Use Permit for the City of Nevada Wastewater Sewer as put forth in case CUP22-000001, as submitted.
- 4) The Story County Board of Adjustment remands the Conditional Use Permit for the City of Nevada Wastewater Sewer as put forth in case CUP22-000001, back to the applicant for further review and/or modifications and directs staff to place this item on the February 16, 2022, Story County Board of Adjustment agenda.



Appendix A

Property Owner	Property Address (if one assigned)	Parcel ID
Keith B. Davis	1137 SW 3 rd Street	1118300115
Keith B. Davis	N/A	1118300145
Kenneth L Nelson, Trustee and Marilyn K Nelson, Trustee	1409 SW 3 rd Street	1118300175
Kenneth L Nelson, Trustee and Marilyn K Nelson, Trustee	N/A	1118300160
Kenneth L Nelson, Trustee and Marilyn K Nelson, Trustee	N/A	1118300310
Kinney-Lindstrom Foundation Inc.	N/A	1119100100
Mark L See	N/A	1119300110
Mark L See	N/A	1119300200
J & S Iowa Farms LLC	N/A	1119300320
J & S Iowa Farms LLC	N/A	1119300400
Ringgenberg Family Trust	N/A	1130100200
Ringgenberg Family Trust	N/A	1130100400
Ringgenberg Family Trust	N/A	1130200300
Mark L See	N/A	1130400105
Mark L See	N/A	1130400305
Nevada, City of	62512 270 th Street	1131200305